

Amendment Under 37 C.F.R. §1.116
Serial No. 09/817,033
Attorney Docket No. 010430

REMARKS

Claims 1-13 are pending in the present application. Claims 9-13 are withdrawn. Claims 1 and 6-8 are rejected. Claim 1 is herein amended. Also, claim 2, which has been previously indicated to be allowable over the art, is amended to be in independent form -- accordingly, claims 2-5 are now allowable, as indicated in the Action.

Applicant's Response to Claim Rejections under 35 U.S.C. §102

Claims 1 and 6-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fisher (U.S. Patent 5,835,896).

The Office Action states that the term "bid evaluation function" is not explicitly defined by the specification and thus is given the broadest reasonable interpretation. The Office Action argues that the specification only discloses an example at page 13, lines 17 and 18. The Office Action goes on to argue that **Fisher** discloses a bid evaluation function because it discloses that bids must meet a minimum bid increment amount, which is then verified before a bid may be entered.

In response, Applicant draws the Examiner's attention to the section of the specification where the "bid evaluation function" is defined:

A term "actual result weight evaluation function," i.e., "successful bid evaluation function" refers to a function for calculating an evaluation value given to each participant by the orderer for a content of a bid made this time by the participant, with regard to past bidding contents and situations of use of resources knocked won, as described later in detail. The evaluation value is set by the orderer and presented previously to participants. Page 11, lines 12-19.

The specification goes on to describe the parameters of this bid evaluation function in the following pages. The bid evaluation function of the present invention estimates the probable bidding price of the present participant by learning from past bidding results of each participant and situations of use of resources won. Particularly, the “bid evaluation function” of the present invention multiplies a past (including this time) bidding price per unit volume (B_n/W_n) by a utilization efficiency of resources won in the past ($1+R_n$), derives an evaluation value of past bidding per time, and divides the evaluation value by the resource occupation rate (M) in present bidding. Please see page 12, lines 10-13 and page 13, line 23 to page 14, line 2. Therefore, Applicants respectfully submit that the specification sufficiently defines the term, and that the definition should control the interpretation of the claim.

Applicant respectfully submits that the Office Action mischaracterizes the bid validator of **Fisher** as a bid evaluation function. The bid validator of **Fisher** merely functions to check for the presence of valid data such as credit card information and address before accepting or rejecting the bid (see col. 7, lines 54-63). Thus, the term “bid evaluation function” of the present invention is quite different from the “bid validator” of Fisher.

The bid evaluator of the claimed invention evaluates the bid amount mathematically based on several factors, and accepts or rejects the bid accordingly. This is described in detail in the specification at page 12, line 8-page 14, line 19. While the bid validator of **Fisher** may require a proper bid increment, **Fisher** does not disclose the use of past bidding data in the validation process, as disclosed in the definition of “bid evaluation function” above. In order to

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further distinguish from the cited art, Applicants request entry of an amendment to claim 1 to recite further details of the bid evaluation function. Favorable reconsideration is respectfully requested.

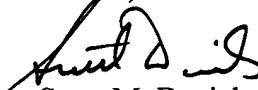
For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned agent.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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